REMARKS/ARGUMENTS

Status of the Claims

Claims 1 to 66 will be pending after entry of this amendment. Claims 20, 22, 28, and 42 have been amended. The amendment to the claims adds sequence ID reference numbers to the amino acid sequences in the claims and correspond to the numbering in the sequence ID listing appended to the specification to comply with the requirements of the sequence rules under 37 C.F.R. § 1.821- 1.825. Claim amendments are for purposes of improved clarity or consistency of claim language unless otherwise noted. No claim amendment should be construed as an acquiescence in any ground of rejection. No new matter has been added by this amendment.

The specification has been amended by addition of sequence ID reference numbers to the amino acid sequences in the specification to comply with the requirements of the sequence rules under 37 C.F.R. § 1.821- 1.825.

Claims 39 and 56 have been rejected under 35 U. S. C. § 112, second paragraph, as being indefinite. Claims 1-7, 9, 38, 39, 47-63, 65, and 66 have been provisionally rejected under 35 U.S.C. § 101 for statutory double patenting.

A petition under 37 CFR § 1.144 and 1.181 accompanies this response.

35 U.S.C. § 112, second paragraph

Claims 39 and 56 have been rejected under 35 U. S. C. § 112, second paragraph, as allegedly being indefinite. The Office asserts that claim 36 is ambiguous in reciting "a temperature-activated gaseous precursor." The Office further asserts that claim 56 is ambiguous in reciting "synergistically effective amount." Applicant traverses the rejection.

Claim 36 is definite in reciting "a temperature-activated gaseous precursor" and is further supported in the specification. The specification states that "a temperature-activated gaseous precursor" is "a compound which, at a selected activation or transition temperature, changes phases from a liquid to a gas. Activation or transition temperature, and like terms, refer to the boiling point of the gaseous precursor, the temperature at which the liquid to

gaseous phase transition of the gaseous precursor takes place. Useful gaseous precursors are those gases which have boiling points in the range of about -100°C to 70°C." See, for example, specification at page 91, l. 29 to page 92, l. 4, and, generally, at page 91, l. 29 to page 94, l. 12. Specific examples of gaseous precursors include perfluorobutane which can be entrapped as a liquid in liposomes below 3°C. As the temperature is raised above 3°C, liposomally entrapped perfluorobutane gas results. See, for example, specification at page 93, l. 29-33. The statement in the specification defines "a temperature-activated gaseous precursor" as a temperature-dependent phase change from liquid to gas. "As an additional example, the gaseous precursor perfluorobutane, can be suspended in an aqueous suspension containing emulsifying and stabilizing agents such as glycerol or propylene glycol and vortexed on a commercial vortexer. Vortexing is commenced at a temperature low enough that the gaseous precursor is liquid and is continued as the temperature of the sample is raised past the phase transition temperature from the liquid to gaseous state. In so doing, the precursor converts to the gaseous state during the microemulsification process. In the presence of the appropriate stabilizing agents, surprisingly stable gas-filled liposomes result." See, for example, specification at page 93, l. 33 to page 94, l. 12. Applicant provides a definition and an example in the specification of "a temperature activated gaseous precursor," as claimed. Applicant respectfully submits, therefore, that Claim 36 is definite.

Claim 56 is definite in reciting "synergistically effective amount." The specification states that a "synergistically effective amount" of a vitronectin receptor targeted imaging agent and perfusion imaging agent is administered when the effect of a vitronectin receptor targeted imaging agent and perfusion imaging agent when administered in combination is greater than the additive effect of either agent when administered alone. See, for example, specification, at page 90, l. 21 to page 91, l.10. The specification describes a range of dosage of perfusion imaging agent (*e.g.*, ^{99m}Tc cardiac perfusion imaging agent or ^{99m}Tc-Sestamibi, at 10-40 mCi) in combination with vitronectin receptor targeted imaging agent (*e.g.*, ^{111}In DOTA-containing vitronectin antagonist complex, at ~1-10mCi). See, for example, specification, Examples 54, 55, 56, and 67; *e.g.*, p. 202, l. 15 to p. 203, l. 14; and p. 214, l. 25 to p. 215, l. 12. Claim 56 is definite in reciting "synergistically effective amount" in

reference to the combined effect of a vitronectin receptor targeted imaging agent and perfusion imaging agent when administered in combination.

Applicant thus respectfully submits that claims 39 and 56 are definite.

Statutory double patenting under 35 U.S.C. § 101

Claims 1-7, 9, 38, 39, 47-63, 65, and 66 have been provisionally rejected under 35 U.S.C. § 101 as allegedly claiming the same invention as that of claims 1-5, 29, 30, and 39-59 of copending Application No. 10/213,713.

Applicant notes the double patenting rejection is provisional in view of a copending application assigned to a common entity. If claims 1-7, 9, 38, 39, 47-63, 65, and 66 of the instant application receive a notice of allowance, Applicant will address the double patenting rejection in view of the later filed and copending Application No. 10/213,713 by appropriate amendment.

Objection to the claims

Claims 8, 10-37, 40-46, and 64 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant submits that since the base claims as written are allowable, dependent claims 8, 10-37, 40-46, and 64 are allowable.

Priority document

The Office has requested a certified copy of a foreign priority application to support Applicant's claim for foreign priority based on an application filed in the Philippines on 11/27/00. In this response, Applicant has corrected the priority claim to claim benefit of a U.S. provisional application. Enclosed with this response, Applicant submits a Petition to accept an unintentionally delayed claim for priority pursuant to 37 C.F.R. § 1.78(c)(3). Applicant has amended the specification to state that the application claims benefit of U.S. Provisional Application 60/253,324, filed November 27, 2000.

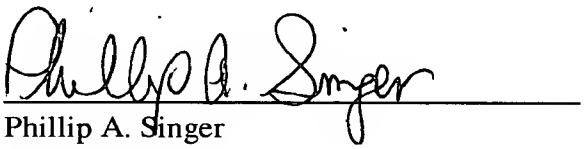
Compliance with requirements of 37 C.F.R. § 1.821 to 1.825

Applicant has complied with the requirements of 37 C.F.R. § 1.821 to 1.825 for amino acid sequence listing by filing a Sequence Listing in a paper copy attached hereto and in computer readable form and by amendment directing its entry into the specification. Applicant further provides an amendment of the Detailed Description by replacement section under 37 C.F.R. 1.121(b)(2) to enter sequence ID numbers into the specification. No new matter has been added by the present amendment.

CONCLUSION

Applicant believes that the present Amendment is responsive to each of the points raised by the Examiner in the Office Action, and submit that Claims 1 to 66 of the application are now in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

Date: January 12, 2004



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